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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,125	06/26/2003	Melvin S. Mogil	024643-00015	3648
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EXAMINER				
PASCUA, JES F				
ART UNIT		PAPER NUMBER		
3782				
NOTIFICATION DATE		DELIVERY MODE		
06/07/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com  
IPMatters@arentfox.com  
Patent\_Mail@arentfox.com

### Office Action Summary

**Application No.**

10/606,125

**Applicant(s)**

MOGIL, MELVIN S.

**Examiner**

Jes F. Pascua

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5-13 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil (US 6,234,677) and Preston (US 5,501,338).

Mogil discloses a soft sided insulated container (Fig. 19) having a first portion (504) and a second portion (506) defining first and second enclosed spaces respectively, the second portion being movable between a first folded position (See Fig. 20) and a second unfolded position (See Fig 19), the second portion having at least one releasable securement (534) for maintaining it in the first position, the container having a first closure member to close the first enclosed space, and a second closure member to control access to the second enclosed space (note zippers), the first and second portions being insulated from each other to permit different environmental conditions to be maintained in the two enclosed spaces, the container further having a third portion mounted thereto defining a third enclosed space (526) wherein an entertainment device is mounted in the third position (the pen in Fig. 15) wherein the assembly has an access port (opening to third portion) capable of accommodating an electrical connection to the entertainment device. Mogil further discloses the second portion having a liner mounted therein, the liner being a monolithic sheet of plastic stock, free of heat welded seams

and made of clear plastic the second portion having reflective inner walls visible through the liner (Col. 9, lines 10-25). Mogil discloses all the limitations of the claims except for the first portion further having a substantially rigid, non-collapsible reinforcement member to maintain it in a condition to receive objects in the first enclosed space, the reinforcement member being a receptacle that is substantially the same size and shape of the first portion, defining a chamber within which to receive objects, the reinforcement member being waterproof and operable to contain liquids, the reinforcement member further having a mating divider to partition the first enclosed space into upper and lower and side accommodations, further the receptacle having a horizontal shoulder, and a divider locatable upon the shoulder alternatively the receptacle being a molded plastic bucket. Preston discloses a substantially rigid reinforcement member (10, 12, 14) which is a waterproof plastic receptacle, being a molded plastic bucket (insofar as applicant sets forth the structure of a "bucket", the molded plastic pieces of Preston meet the limitations of the claim) operable to contain liquids and objects, having a mating divider (32) and a horizontal shoulder (the top of 12 and 14, insofar as applicants claims set forth the structure of a horizontal shoulder), the divider and shoulder working together to partition the first enclosed space into side by side (as in 10, via 34) and upper and lower (12 vs 14 vs 10) regions, in order to keep separate different items stored in the cooler. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to create the assembly of Mogil with the reinforcement member and dividers of Preston in order to create separate regions for different items stored within the cooler. Providing the first portion of Mogil with the reinforcement member of Preston, as

discussed above, inherently meets the recitation "said reinforcement member being mounted within said first portion such that said first portion has a non-collapsible rigid form".

3. Claims 1, 2, 5-11, 16, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil (US 6,234,677) and Melk (US 5,403,095).

Mogil discloses a soft sided insulated container (Fig. 19) having a first portion (504) and a second portion (506) defining first and second enclosed spaces respectively, the second portion being movable between a first folded position (Fig. 20) and a second unfolded position (Fig. 19), the second portion having at least one releasable securement (534) for maintaining it in the first position, the container having a first closure member to close the first enclosed space, and a second closure member to control access to the second enclosed space (note zippers), the first and second portions being insulated from each other to permit different environmental conditions to be maintained in the two enclosed spaces, the container further having a third portion mounted thereto defining a third enclosed space (526) wherein an entertainment device is mounted in the third position (the pen in Figure 15) wherein the assembly has an access port (opening to third portion) capable of accommodating an electrical connection to the entertainment device. Mogil further discloses the second portion having a liner mounted therein, the liner being a monolithic sheet of plastic stock, free of heat welded seams and made of clear plastic the second portion having reflective inner walls visible through the liner (Col. 9, lines 10-25). Mogil discloses all the limitations of

the claims except for the first portion further having a substantially rigid reinforcement member to maintain it in a condition to receive objects in the first enclosed space, the reinforcement member being a receptacle, being substantially the same size and shape of the first portion, the non-collapsible receptacle being capable of holding liquids, and further being a molded plastic bucket. Melk discloses a substantially rigid reinforcement member (24) comprising a non-collapsible molded plastic bucket (insofar as applicants claims set forth the structure of a "bucket") held inside an analogous insulated portion in order to form a rigid waterproof liner, improving thermal characteristics of the container and providing structural support for the container (Abstract), the reinforcement member being substantially the same size and shape as the insulated portion and giving the insulated portion a non-collapsible, rigid form. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide one of the insulated portions of Mogil with the reinforcement member of Melk, in order to render the insulated portion rigid and waterproof and improve its thermal characteristics and structural integrity. Providing the first portion of Mogil with the reinforcement member of Melk, as discussed above, inherently meets the recitation "said reinforcement member being mounted within said first portion such that said first portion has a non-collapsible rigid form".

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil (US 6,234,677) and Melk (US 5,403,095) as applied to claim 1 above and further in view of Beales (US 5,020,921).

Mogil as modified above discloses all the limitations of the claim except for the reinforcement member having a folding divider for sub-dividing the first enclosed space. Beales discloses a foldable divider for supporting and separating items in an enclosed space (Fig. 4). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the folding divider of Beales in conjunction with the reinforcement member of the modified Mogil container, in order to provide support and separation for the items held within the reinforcement member.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil (US 6,234,677) and Preston (US 5,501,338) as applied to claim 2 above and further in view of Arreazola (US 2003/0139169), Sloan (US 6,305,185), Rucker (US 6,216,488) and Ellison (US 5,979,175).

Insofar as Mogil does not disclose the entertainment device requiring a power source, Arreazola, Sloan, Rucker and Ellison disclose the combination of a radio with a cooler. In light of the teachings of Arreazola, Sloan, Rucker and Ellison, it would have been obvious to one of ordinary skill in the art at the time of invention to insert a standard radio in the third portion of Mogil, and to then provide it power in order to make it operable, as this would allow music to more easily be brought to where the cooler was being used.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil (US 6,234,677) and Melk (US 5,403,095) as applied to claim 2 above and further

in view of Arreazola (US 2003/0139169), Sloan (US 6,305,185), Rucker (US 6,216,488) and Ellison (US 5,979,175).

Insofar as Mogil does not disclose the entertainment device requiring a power source, Arreazola, Sloan, Rucker and Ellison disclose the combination of a radio with a cooler. In light of the teachings of Arreazola, Sloan, Rucker and Ellison, it would have been obvious to one of ordinary skill in the art at the time of invention to insert a standard radio in the third portion of Mogil, and to then provide it power in order to make it operable, as this would allow music to more easily be brought to where the cooler was being used.

### ***Response to Arguments***

7. Applicant's arguments filed 03/05/2010 have been fully considered but they are not persuasive.

Applicant's sole argument against the applied prior art is that "Mogil clearly teaches away from a *rigid* container" is not convincing because applicant fails to submit evidence that the applied Mogil reference expressly discloses that a rigid container is undesirable. Furthermore, Mogil discloses the desire for the container to be rigid in order to protect softer contents from harder contents. See col. 13, lines 1-7. This statement in Mogil falls short of the kind of teaching that would discourage a person having ordinary skill in the art from providing a non-collapsible member within an insulated portion.



It is noted that the non-collapsible members (tray assemblies 12, 14, 16) of Preston are disclosed as being removable from its insulated portion (cover 22). See col. 3, lines 18-21. Similarly, the non-collapsible member (liner 24) of Melk is disclosed as being removable from its insulated portion (22). Therefore, the removable capability of the non-collapsible members of Preston and Melk would not interfere with or destroy the function of collapsing the first portion for storage in the Mogil container.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/  
Primary Examiner, Art Unit 3782